

1 THE HONORABLE JOHN C. COUGHENOUR
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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 UNITED STATES OF AMERICA,

11 Plaintiff,

v.

12 LORENZO BELL,

13 Defendant.

CASE NO. CR18-0261-JCC

ORDER

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15 This matter comes before the Court on Defendant's motion for the return of seized
16 property (Dkt. No. 42) and motion to reduce sentence (Dkt. No. 43). Having thoroughly
17 considered the parties' briefing and the relevant record, the Court finds oral argument
18 unnecessary and hereby DENIES the motions for the reasons explained herein.

19 **I. BACKGROUND**

20 Defendant pled guilty to possession of cocaine base with intent to distribute. (Dkt. No. 40
21 at 1.) The Court dismissed a second charge of felon in possession of a firearm. (*Id.*; Dkt. No. 20
22 at 2.) On June 4, 2019, the Court sentenced Defendant to a 36-month prison term. (Dkt. No. 40 at
23 2.) On June 10, 2019, Defendant, proceeding *pro se*, filed a motion for return of seized
24 property—a BMW-7451 automobile, a Rolex watch, and \$950 in cash. (Dkt. No. 42.) On that
25 same day, Defendant filed a motion for a “modification in sentence.” (Dkt. No. 43.) On June 13,
26 2019, Defendant’s counsel filed a notice of appeal to the Ninth Circuit Court of Appeals. (Dkt.

1 No. 44.)

2 **II. DISCUSSION**

3 For the sake of judicial economy, “[t]he filing of a notice of appeal . . . confers
4 jurisdiction on the court of appeals and divests the district court of its control over those aspects
5 of the case involved in the appeal.” *Griggs v. Provident Consumer Disc. Co.*, 459 U.S. 56, 58
6 (1982); *see also United States v. Sosipather-Valtierra*, 225 F.3d 665, 665 (9th Cir. 2000) (finding
7 that the district court lacked jurisdiction over a motion for resentencing after the defendant filed
8 a notice of appeal). However, a district court may retain jurisdiction to correct clerical mistakes
9 or make clarifications pursuant to Federal Rule of Civil Procedure 60(a), to “supervise the status
10 quo . . . or in aid of execution of a judgment,” or as permitted by statute. *Stein v. Wood*, 127 F.3d
11 1187, 1189 (9th Cir. 1997) (collecting cases). When a court lacks jurisdiction over a timely
12 motion because of a pending appeal, “the court may: (1) defer considering the motion; (2) deny
13 the motion; or (3) state either that it would grant the motion if the court of appeals remands for
14 that purpose or that the motion raises a substantial issue.” Fed. R. Crim. P. 37.

15 Defendant has not established that Federal Rule of Civil Procedure 60(a) applies to his
16 case. (*See* Dkt. Nos. 42, 43.) Defendant is not asking the Court to maintain the status quo or aid
17 in executing the judgment. (Dkt. No. 40); *see Stein*, 127 F.3d at 1189. Finally, Defendant has not
18 cited a statute that grants the Court jurisdiction in this instance. *See* Fed. R. Crim. P. 35(a); Fed.
19 R. App. P. 4(b)(5); *see also Stein*, 127 F.3d at 1189. Thus, no exception applies and jurisdiction
20 over this case passed to the Ninth Circuit upon Defendant’s filing of his notice of appeal. (Dkt.
21 No. 44); *see Griggs*, 459 U.S. at 58. The Court declines to defer the motions or reach their
22 merits.

23 **III. CONCLUSION**

24 For the foregoing reasons, Defendant’s motion for the return of seized property (Dkt. No.
25 42) and motion to reduce sentence (Dkt. No. 43) are DENIED without prejudice.

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2 DATED this 9th day of July 2019.
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7 John C. Coughenour
8 UNITED STATES DISTRICT JUDGE
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